IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

FRIDAY, THE 2ND MARCH 2007 / 11TH PHALGUNA 1928

WP(C).No. 6525 of 2007(B)

PETITIONER:

O.S. SOMAN, (SUB ENGINEER, KSEB, RETD.)
UTHIKKUZHA HOUSE, VAZHOOR, KOTTAYAM DISTRICT.

BY ADV. SRI.P.R.RAMACHANDRA MENON

RESPONDENTS:

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1. THE KERALA STATE ELECTRICITY BOARD,
(KSEB IN SHORT), REP. BY THE POWER SECRETARY,
VAIDHYUTHY BHAVAN, PATTOM, THIRUVANANTHAPURAM.

2. THE CHIEF ENGINEER (HRM),
THE KERALA STATE ELECTRICITY BOARD,
(KSEB IN SHORT), VAIDYUTHY BHAVAN, PATTOM,
THIRUVANANTHAPURAM.

3. THE CHIEF INTERNAL AUDITOR,
THE KERALA STATE ELECTRICITY BOARD,
(KSEB IN SHORT), VAIDYUTHY BHAVAN, PATTOM,
THIRUVANANTHAPURAM.

4. THE ACCOUNTS OFFICER (PAY FIXATION)
OFFICE OF THE CHIEF INTERNAL AUDITOR,
KSEB, THIRUVANANTHAPURAM.

5. THE ACCOUNTS OFFICER (PENSION
AUTHORIZATION), KSEB, THIRUVANANTHAPURAM.

6. THE EXECUTIVE ENGINEER,
GENERATION DIVISION, PERINGALKUTHU.

BY SC SHRI. K.S.ANIL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J.

WP(C)No. 6525 OF 2007

Dated this the 2nd March, 2007.

JUDGMENT

The petitioner has retired from service while working as Sub Engineer under the respondent-Board. The third respondent who is the Chief Internal Auditor of the respondent has forwarded Ext.P4 letter dated 5.2.2007 informing the second respondent-Chief Engineer as follows:-

> "The legal opinion given by the Legal Adviser & Disciplinary Enuqiry Officer was not considered when fixation approval was given to Shri. O.S.Soman, Sub Engineer. Now the approval given to Shri. O.S.Soman on junior-senior fixation is cancelled, based on the remark of the LA & DEO cited as second above. Divisional Officer may be instructed to refix the pay effecting the increment bar with cummulative effect in the last increment of the incumbent. Accordingly excess pay drawn, if any, by Shri. O.S.Soman is to be recovered in all aspects."

2. Feeling aggrieved, this writ petition has been filed. Various contentions have been raised to sustain the order earlier passed by the Chief Engineer and to attack Ext.P4 order.

3. Legal Liaison Officer for the respondent-Board submits that the second respondent is free to take appropriate decision in the matter after considering Ext.P4 and that the final order will have to be passed by the Chief Engineer.

4. Since Ext.P4 is only an inter-departmental communication and Ext.P4 will not come into operation unless acted upon by the Chief Engineer, I propose to dispose of the writ petition as follows:-

(i) The petitioner will be free to file his objections before the second respondent against the opinion of the third respondent vide Ext.P4.

(ii) If the second respondent receives the objection filed by the petitioner within two weeks, the same shall be considered along with Ext.P4 and final decision taken with reference to all relevant records.

(iii) Till such orders are passed, recovery proceedings as per Ext.P4 shall be kept in abeyance.

The petitioner shall produce a copy of this judgment along with his representation before the second respondent for compliance.

K.K.DENESAN
Judge

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